

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION

GABRIEL LIZANA #L7444

VS.

CIVIL ACTION NO. 2:08cv64-KS-MTP

JOY ROSS

ORDER

This cause is before the Court on Motion to Dismiss for Failure to Exhaust Available Administrative Remedies and for Stay filed by Joy Ross [21], Report and Recommendation of Magistrate Judge Michael T. Parker [26] and Notice of Voluntary Dismissal by Plaintiff Gabriel Lizana [27], and the Court after considering same finds as follows.

That the Defendant filed a Motion to Dismiss for Failure to Exhaust, etc., which was opposed by Plaintiff Gabriel Lizana. After due consideration by Magistrate Judge Michael T. Parker, he recommended that the complaint be dismissed without prejudice for failure to exhaust. Following the filing of the Report and Recommendation, the Plaintiff requested a voluntary dismissal without prejudice [27]. The Court has considered all of the above and finds that the complaint filed herein should be dismissed without prejudice.

NOW, THEREFORE, IT IS HEREBY ORDERED that the above styled and numbered cause be and the same is hereby dismissed without prejudice and at costs of Plaintiff.

SO ORDERED this, the 7th day of July 2008.

s/Keith Starrett
UNITED STATES DISTRICT JUDGE